THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 23188 of 2006

O r d e r:

Assailing the orders dated 04.05.2002, passed by the 2nd respondent, namely the Accounts Officer, working in the office of the 1st respondent, namely the Superintending Engineer, rejecting the request of the petitioner for rectification of the anomaly in his pay, as illegal and arbitrary, the petitioner filed the present writ petition.

The learned counsel for the petitioner submits that the petitioner, who was appointed as LDC in the year 1997 is much senior to one Shri R. Devender, who was appointed as LDC in the year 1994. He submits that though the petitioner is much senior to the said Shri R. Devender, the respondents were and are paying him less salary than his junior. To rectify the anomaly and pay salary on par with his junior, the petitioner made representations to the respondents in van, and as his representations were not disposed of, he filed writ petition in W.P. No. 11862 of 2001, and this Court by order dated 18.02.2002, disposed of the said writ petition directing the 1st respondent therein to implement the orders dated 10.08.2000. In compliance of the said order of this Court, the 2nd respondent passed the impugned order dated 04.05.2002, rejecting the request of the petitioner for rectification of the anomaly in his pay. Alleging that the respondents have not implement the orders dated 18.02.2002, the petitioner filed contempt case in C.C.
No. 1821 of 2003, which by orders dated 14.02.2003, was closed.

The learned counsel for the petitioner now contends that he is entitled to rectification of anomaly in his pay based on the proceedings

issued by the respondents in Memo No. DS(R)/DM.VII/S2-559/93-2, dated 19.04.1995 in pursuance of the directions issued by this Court in W.P. No. 10869 of 1984, dated 06.11.1992, wherein the executive orders issued by the respondents in Memo No. DM.III/Addl. Sec.II/19-A1/70-1, dated 17.11.1978, were assailed. He submits that since this Court in the said judgment has observed that once common scale is given to LDCs., there should not be any difference in the pay between the graduate LDC and non-graduate LDC, he should be given the benefit of the Memo dated 19.04.1995, and the impugned proceedings issued by the 2nd respondent, rejecting the claim of the petitioner, purported to have been passed in pursuance of the orders of this Court, is illegal and arbitrary, and more so when the 1st respondent vide his Memo No. SE/OP/RR/F.49 Adm/D. No. 854, dated 10.08.2000.

The learned Standing Counsel for the respondents-APCPDCL submits that the pay of Shri R. Devender, who is junior to the petitioner, was fixed in terms of B.P. Ms. No. 806, dated 24.12.1973, and as he is having degree qualifications, he was given three weightages as per the instructions issued in the said Board proceedings. Hence, the petitioner being a non-graduate, cannot compare himself with a graduate and contend that he should be paid salary on par with his junior, who is getting more salary by virtue of possessing degree qualifications. Hence, he prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APCPDCL.

The contention of the petitioner that he is entitled to rectification of anomaly in his pay on par with his junior, namely one Shri R. Devender, cannot be accepted. As can be seen from the impugned

proceedings, and as is the case of the respondents, though the petitioner is much senior to Shri R. Devender, the fact remains, the petitioner is a non-graduate and while Shri R. Devender is a graduate, the pay of Shri R. Devender, was fixed as per B.P. Ms. No.806, dated 24.12.1973, and as the said proceedings provided for granting of three weightages to those who possess graduation, and having regard to the fact that Shri R. Devender possess graduation, he was given three weightages, and because of the weightages given to him, he is getting more salary while the petitioner is getting less salary.

Though the petitioner contends that he is entitled to the benefit of Memo, dated 19.04.1995, issued by the respondents in pursuance of the orders dated 06.11.1992, passed by this Court in W.P. No. 10869, the fact remains this Court had merely set aside the statutory amendment issued in exercise of executive power, and it is not known whether B.P. Ms. No. 806, dated 24.12.1973, based on which the salary of the petitioner as well as his junior were fixed, was set aside or not. Further, the respondents having considered the case of the petitioner in the light of the instructions issued in Memo dated 10.08.2000, as directed by this Court, passed the impugned order, and the contempt case filed thereagainst, was also closed. The impugned order was passed as far back as on 04.05.2002, and though the contempt case filed alleging non-compliance of the order of this Court was closed on 14.02.2003, the fact remains, the petitioner present writ petition assailing the impugned proceedings after lapse of more than three years.

In the above view of the matter, I find no merit in the writ petition, and the same is accordingly dismissed. No csots.

N.V. RAMANA, J.

Date: 14th November, 2006.
KSR